IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7860 OF 2005

Shri Salim Dawalsaheb
Nadwinmani and anr. ....Petitioners.
(Original accused)

V/s

The State of Maharashtra
(Police Inspector Bund Garden
Police Station Pune) ....Respondent.
(Original Complainant)

Mrs. J.V. Walujkar for the petitioners.

Mr. A.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 9th January, 2006

P.C.

1. Heard the learned counsel for the Petitioners and the learned Counsel for the State.

2. The applicants were arrested on 15/8/2005. The prosecution case is that the applicants had committed dacoity at Bhartiya Vanaspati Sanshodhan Sanstha, Band Garden Road, Pune at about 2.15 a.m. on 11/8/2005. The offence under section 395 was registered against them. The charge-sheet has been filed.

3. It is submitted by the learned counsel appearing on behalf of the applicants that no recovery of

weapons has been made at the instance of the applicants and the applicants were arrested in the Railway Station, Pune while they were waiting to go to their native place. It is submitted that the applicants are innocent and the injuries which are caused to the Guard of the said Sanstha are minor and, therefore, at the most, offence under section 379 of the IPC will be attracted. It is not possible to accept this submission. The charge-sheet has been filed. The question whether the offence under section 379 or 395 is attracted will be determined only at the time of the trial. The applicants are involved in an offence of dacoity and during the course of the said offence they assaulted the Guard of the said Sanstha. Hence, no case is made out for grant of bail at this stage. Liberty, however, is granted to the applicants to apply after six months if the trial is not over.

4. Application is disposed of in the above terms.

V.M. KANADE, J.